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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,747	06/21/2001	Mihaela Van Der Schaar	US 000168	7494

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EXAMINER

LEE, RICHARD J

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/887,747	Applicant(s) VAN DER SCHAAR ET AL.	
	Examiner Richard Lee	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7-19,21-31,33-43 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7-19,21-31,33-43 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5, 7, 8, 12-19, 21, 22, 26-31, 33-36, 40-43, and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Li of record (6,275,531).

Li discloses a scalable video coding method and apparatus as shown in Figure 1, and the same method, system, apparatus, and device as claimed in claims 1-3, 5, 7, 8, 12-19, 21, 22, 26-31, 33-36, 40-43, and 45 for reformatting frames of a video data stream for improving the transmission efficiency of an original video signal transmitted as a plurality of frames, the frames containing the video signal encoded in a base layer and an enhancement layer wherein at least one element of the enhancement layer is selectively enhanced by designating the at least one selected element to have a higher priority of transmission (i.e., higher priority is given to enhancement bitstream layer 1 than enhancement bitstream layer 2, see column 5, lines 41-56), comprising the same means for transmitting a first set of criteria (i.e., a priority identifier is supplied to each of the enhancement bitstream layers, see column 5, lines 41-56) for one of the frames; means for transmitting an indicator (i.e., priority identifiers and logic control the transmission of the bitstreams, see column 5, line 41 to column 6, line 7) that causes the first set of criteria to be used for a subsequent one of the frames if a second set of criteria for the subsequent one of the frames is substantially the same as the first set of criteria (i.e., each enhancement layer comprises a plurality of enhancement layer bitstreams, wherein enhancement

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layer bitstream 1 will always be given higher priority than enhancement layer bitstream 2, and the priority of enhancement layer bitstream 1 (first set of criteria) of an enhancement layer, for example, will be the same as the priority of enhancement layer bitstream 1 of every succeeding enhancement layer (second set of criteria), see column 5, lines 41-56); wherein the first set of criteria includes at least one enhancement factor value, wherein the at least one enhancement value is applied and corresponds to each element within in the enhancement layer, the at least one enhancement factor value is power of two (i.e., if the base layer quantized DCT coefficient is non-zero, i.e. 2, the corresponding enhancement layer difference will have the same sign as the base layer quantized DCT, the sign indication being one enhancement factor value as claimed to identify the sign bit, see column 9, lines 1-47); the first set of criteria includes position, size and enhancement factor value, wherein the position is selected with respect to a known point (i.e., the position and size of blocks/macroblocks, priority identifiers indicating higher priority thereby enhancing the image, and the sign indication provided for DCT difference is considered an enhancement factor value, see column 1, lines 50-59, column 5, lines 41-56, column 9, lines 1-47); wherein the at least one element comprises a plurality of pixels in an array having an equal number of rows and columns, wherein the number of rows is selected from the group consisting of 2, 3, 4, 8, 16 (see column 1, lines 50-59); wherein the enhancement layer is fine granular scalability encoded (see column 3, lines 6-27); means for receiving the first set of criteria for the one of the frames and the indicator and means for applying the first set of criteria to the subsequent one of the frames (i.e., as provided by 70, 80, 90 of Figure 1, see column 5, line 41 to column 6, line 14).

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-11, 23-25, and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li as applied to claims 1-3, 5, 7, 8, 12-19, 21, 22, 26-31, 33-36, 40-43, and 45 in the above paragraph (2), and further in view of Hsieh et al of record (5,995,150).

Li discloses substantially the same method, system, apparatus, and device as above, but does not particularly disclose, though, wherein the first set of criteria includes at least a second indicator that indicates a corresponding known value, the known value is selected from the group consisting of position, displacement vector, size, and enhancement factor, and wherein the indicator is substantially the same as the at least a second indicator as claimed in claims 9-11, 23-25, and 37-39. However, Hsieh et al discloses a dual compressed video bitstream camera, and teaches the conventional use of additional indicators or flags that may be provided as part of the picture, sequence, and macroblock headers and that may be inserted into the enhancement layer bitstreams (see column 14, lines 43-56). Therefore, it would have been obvious to one of ordinary skill in the art, having the Li and Hsieh et al references in front of him/her and the general knowledge of the use of indicators and flags within base and enhancement layer bitstreams, would have had no difficulty in view of the teachings of the additional indicators and flags for enhancement layer bitstreams to provide the first set of criteria of Li with at least a second indicator that indicates a corresponding known value, the known value is selected from the group consisting of position, displacement vector, size, and enhancement factor, and wherein

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the indicator is substantially the same as the at least a second indicator for the same well known identification of additional information in the compressed video stream purposes as claimed.

5. The applicants argued at pages 1-4 of the request for reconsideration filed July 10, 2006 in general the traversal of the rejection of claims 1-3, 5, 7, 8, 12-19, 21, 22, 26-31, 33-36, 40-43, and 45 under 35 U.S.C. 102, and specifically that "... The system of Lee encodes a video into two layers using a base layer encoder and an enhancement layer encoder ... Although the transmission priority for bitstream is specified, the system of Li does not use an indicator to avoid retransmission of an enhancement layer bitstream of a previous frame. In other words, each bitstream is transmitted for each frame dependent on the bitstream's priority and not on the value of an indicator that causes a previous enhancement layer bitstream to be used for a subsequent frame. Consequently, Applicant respectfully submits that Li does not disclose, teach, or suggest transmitting or generating "an indicator that causes said first set of criteria to be used for a subsequent one of said frames if a second set of criteria for the subsequent one of said frames is substantially the same as said first set of criteria" ... Li does not disclose, teach, or suggest "means for transmitting an indicator if a second set of criteria for a subsequent one of said frames is substantially the same as said first set of criteria" as recited in claim 41 ...". The Examiner respectfully disagrees. The Examiner wants to initially point out that: The Specification is not the measure of invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art. In re Sporck, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968). The applicants' attention are directed to column 5, lines 41-56 of Li wherein it is taught that different priority identifiers are being assigned to the base and enhancement layer bitstreams. Each enhancement layer comprises a plurality of enhancement

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layer bitstreams, wherein enhancement layer bitstream 1 will always be given higher priority than enhancement layer 2. The priority identifiers of Li are nevertheless the same as or equivalent to the “indicator” as claimed. And since the priority of enhancement layer 1 (first set of criteria) of an enhancement layer as taught by Li for example (see column 5, lines 41-56) will be the same as the priority of enhancement layer bitstream 1 of every succeeding enhancement layer (second set of criteria), Li therefore anticipates the particular transmitting or generating “an indicator that causes said first set of criteria to be used for a subsequent one of said frames if a second set of criteria for the subsequent one of said frames is substantially the same as said first set of criteria” and “means for transmitting an indicator if a second set of criteria for a subsequent one of said frames is substantially the same as said first set of criteria” as claimed.

Regarding the applicants’ arguments at page 5 of the request for reconsideration filed July 10, 2006 concerning in general that claims 9-11, 23-25, and 37-39 are allowable based on the same reasons stated in connection with the rejection of independent claims 1, 15, and 29, the Examiner wants to point out that such arguments have been addressed in the above paragraph.

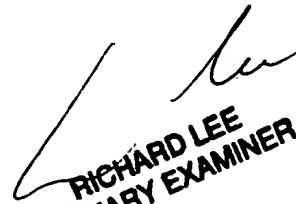
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (571) 272-7333. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.


RICHARD LEE
PRIMARY EXAMINER

Richard Lee/rl 

9/21/06